

REMARKS

Claims 1-2, 4-5, 10-11, 13-14, 19-23, and 28 are currently pending in the present application. Reconsideration of the pending claims is respectfully requested.

The Examiner rejected Claims 1-2, 4-5, 10-11, 13-14, 19-23, and 28 under 35 U.S.C. § 102(e) as being anticipated by Tokuhito (U.S. Patent No. 6,088,364). This rejection is respectfully traversed.

As previously discussed, the present invention is directed to a method and apparatus for efficiently communicating packetized MIDI data and audio data through various kinds of communication network. More specifically, a transfer rate is first estimated in accordance with a communication rate of a communication network, and then the audio data is transmitted, wherein the amount of audio data transferred is controlled based on the estimated transfer rate of the communication network. Also transmitted are media data such as MIDI data and the data amount information indicating amount of data to be transmitted. A receiver then receives the audio data and reproduces the received audio data in accordance with the data amount information received.

Tokuhito, on the other hand, discloses a conventional practice of determining a network transfer rate of data generally (see Col. 5, lines 28-51). Automatic estimation of data transfer rate is a common handshake procedure anytime a network connection is initiated. However, Tokuhito does not contain any disclosure or suggestion of estimating the transfer rate of media data other than digital audio data before transmission in accordance with a communication rate of a communication network, and controlling the amount of digital audio data to be transmitted in accordance with the estimated transfer rate, as recited in the independent claims. In fact, Tokuhito makes not discrimination amongst the different types of data whatsoever, but instead only speaks to the different data transfer speed for different standards such as IEEE1394. Accordingly, Applicant

respectfully submit that that Claims 1-2, 4, 5-11, 13-21, and 22-28 are not anticipated by, nor obvious in view of Tokuhiro.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conversation would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032012000. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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